

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 239

Introduced by Senator Romero

February 15, 2005

An act to add ~~Section 2602~~ *Sections 2602 and 2603* to the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

SB 239, as amended, Romero. Media access to prisoners.

Existing law grants certain rights to inmates in state prisons. Existing regulation allows media representatives access to state prisons with prior approval, and allows random interviews with inmates.

This bill would make findings and declarations regarding the importance of allowing the media to have access to inmates.

The bill would require the Department of Corrections, upon reasonable notice, to permit representatives of the news media to interview prisoners in person or randomly, as specified, and would prohibit the interview of a prisoner or parolee against his or her will. The bill would require the department to permit the news media to receive confidential correspondence from a prisoner, except as specified, and would forbid retaliation against an inmate for participating in a visit by a representative of the news media.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *It is the intent of the Legislature in enacting this*
2 *act to invalidate changes in Section 3261.5 of Title 15 of the*

1 *California Code of Regulations for which a certificate of*
2 *compliance was filed on April 14, 1997.*

3 **SECTION 1.**

4 SEC. 2. Section 2602 is added to the Penal Code, to read:

5 2602. (a) The Legislature finds and declares all of the
6 following:

7 ~~(a)–~~

8 (1) Free exchange of information from behind prison walls
9 benefits the public and fosters a safe and efficient prison system.

10 ~~(b)–~~

11 (2) The Department of Corrections has historically permitted
12 media access to state prisoners without endangering the safety of
13 the prisons or the public.

14 ~~(c)–~~

15 (3) Members of the news media should be permitted to
16 interview state prisoners unless that access would pose an
17 immediate and direct threat to the security of the institution or the
18 safety of members of the public.

19 ~~(d)–~~

20 (4) There is no legitimate reason for a blanket ban on media
21 interviews with specified prisoners.

22 (b) *The Department of Corrections, upon reasonable notice,*
23 *shall permit representatives of the news media to interview*
24 *prisoners in person, including prearranged interviews with*
25 *specified prisoners. A personal interview of a particular prisoner*
26 *may be denied if the department determines that the interview*
27 *would pose an immediate and direct threat to the security of the*
28 *institution or the physical safety of a member of the public. The*
29 *department may establish reasonable time, place, and manner*
30 *restrictions for prison interviews, including limitations on the*
31 *number of interviews per prisoner in a specified time period, and*
32 *requiring arrangements for pool interviews if requests to*
33 *interview any one prisoner are excessive, in order to ensure the*
34 *security of the institution, the physical safety of the public, and*
35 *the efficient administration of news media interviews.*

36 (1) *The department shall permit random interviews of*
37 *individuals encountered by a representative of the news media*
38 *while covering a facility tour, activity, event, or program.*

39 (2) *During any interview with a prisoner, a representative of*
40 *the news media may use materials necessary to conduct the*

1 interview, including, but not limited to, pens, pencils, papers, and
2 audio and video recording devices.

3 (3) The department shall permit the news media to receive
4 confidential correspondence from a prisoner unless to do so
5 would pose an immediate and direct threat to the security of the
6 institution or the safety of the public.

7 (4) No prisoner or parolee shall be interviewed against his or
8 her will.

9 (5) No prisoner or parolee may have his or her visitation
10 limited or revoked because of a visit or potential visit from a
11 representative of the news media, nor may a prisoner or parolee
12 be punished, reclassified, disciplined, transferred to another
13 prison against his or her wishes, or otherwise retaliated against
14 for participating in a visit by a representative of the news media.

15 SEC. 3. Section 2603 is added to the Penal Code, to read:

16 2603. For purposes of this article, “representative of the
17 news media” means a journalist who works for, or is under
18 contract to, a newspaper, magazine, wire service, book
19 publisher, or radio or television program, or station or who,
20 through press passes issued by a governmental or police agency,
21 or through similar convincing means, can demonstrate that he or
22 she is a bona fide journalist engaged in the gathering of
23 information for distribution to the public.